

STATE OF CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY DEPARTMENT OF  
TOXIC SUBSTANCES CONTROL

In the Matter of:	)	Docket HWCA <u>00/01-6002</u>
	)	
Tosco Corporation	)	CONSENT ORDER
1660 West Anaheim Street	)	
Wilmington, CA 90744	)	Health and Safety Code
EPA 10# CAD008237679	)	Section 25187
	)	
Respondent.	)	
_____	)	

The State Department of Toxic Substances Control (Department) and Tosca Corporation (Respondent) enters into this Consent Order and agree as follows:

1. Respondent generates hazardous waste at the following site: 1660 West Anaheim Street, Wilmington, California 90744 (Site).
2. The Department inspected the Site on October 18-19, 2000.
3. The Department alleges the following violations:
  - 3.1 The Respondent violated Section 25189.2(c) of the Health and Safety Code in that on or about October 18-19, 2000, Respondent allowed the disposal of hazardous waste onto the ground. To wit: Respondent allowed FO37 hazardous waste to spill onto the asphalt floor within the Hazardous Waste Storage Area.

The leaking roll-off bin was identified with the Bin Number 537088 "USPC." Also, Respondent allowed the sulfur-stretford waste (CWC 181) to spill onto the asphalt floor within the Hazardous Waste Storage Area.
  - 3.2. The Respondent violated Section 66265.171 of Title 22 of the California Code of Regulations in that on or about October 18-19, 2000, Respondent failed to

transfer hazardous waste (F037) from roll-off bin (#537088), which was in poor condition, to a roll-off bin in good condition, allowing disposal of hazardous waste onto the ground.

- 4. A dispute exists regarding the alleged violations.
- 5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.
- 6. Jurisdiction exists pursuant to Health and Safety Code section 25187.
- 7. Respondent waives any right to a hearing in this matter.
- 8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.
- 9: Respondent does not admit the violations alleged above, except as follows:  
Respondent admits the facts alleged above for the purposes of any subsequent action brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., within 5 years of the date the violations occurred.

SCHEDULE FOR COMPLIANCE

- 10. The violations have been corrected.
- 10.1 Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.2. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

### PAYMENTS

1.1 Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$15,000.00. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21 St Floor  
P.O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Ms. Astrid L. Johnson, Unit Chief  
Statewide Compliance Division  
Department of Toxic Substances Control  
1515 Tollhouse Road  
Clovis, California 93611

To: Ms. Charlene Williams, Chief  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Avenue, Bldg. F., Suite 200  
Berkeley, California 94710

To: Ms. Nancy Long, Senior Staff Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, 23rd Floor  
P. O. Box 806  
Sacramento, California 95812-0806

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to HSC § 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

#### OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health & Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department

and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4 Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6 Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: 10/10/01

(Original signed by Gary A. Freiburger)  
Signature of Respondent's Representative

Dated: 10/10/01

(Original printed by Gary A. Freiburger)  
Typed or Printed Name and Title of  
Respondent's Representative

Dated: 10/16/01

(Original signed by Astrid L. Johnson)  
Astrid L. Johnson, Unit Chief  
Statewide Compliance Division  
Department of Toxic Substances Control